FIFTEENTH ANNUAL REPORT

OF

THE DEPARTMENT OF JUSTICE

FOR

PRINCE EDWARD ISLAND

1987

TO:

THE HONOURABLE LLOYD G. MACPHAIL
Lieutenant Governor
Province of Prince Edward Island

May It Please Your Honour:

I have the honour to submit the fifteenth Annual Report of the Department of Justice for this province.

I have the honour to be, Sir,

Your obedient servant,

Wayne D. Cheverie, Q.C.
Minister of Justice and
Attorney General

TO:

THE HONOURABLE WAYNE D. CHEVERIE, Q.C.
Minister of Justice and Attorney General
Province of Prince Edward Island

Sir:

I am pleased to submit herewith the Annual Report of the Department of Justice for the year ending 31 December 1987.

Respectfully submitted,

Arthur J. Currie, Q.C.
Deputy Minister of Justice

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INTRODUCTION

Staff of the Department of Justice, and in particular the Division of Community and Correctional Services, were involved in the planning of the three facilities to house young offenders. Construction of these facilities is scheduled to start in the spring of 1988. Legislation passed during the 1988 Session of the Legislature was proclaimed together with the necessary regulations during the year, namely: Real Property Act proclaimed 15 June 1987; Department of Justice (Fees) Act, Sections 1-5 proclaimed 1 August 1987, Section 7 proclaimed 1 July 1987; Films Act proclaimed 1 January 1988; Supreme Court Act proclaimed 1 October 1987; Interprovincial Subpoena Act proclaimed 1 September 1987. At the time of the writing of this report regulations are being drafted under the Private Investigators and Security Guards Act and the Child Status Act. These pieces of legislation should be proclaimed in the spring of 1988.

Mrs. Francis MacDonald, Registrar of Deeds, retired in the summer of 1988 after thirty-four years of service to the Province. Mrs. MacDonald was a dedicated public servant who administered her office in an efficient manner.

The reports of the divisions of the Department contained herein have been prepared by the Directors and amalgamated into the report of the Department. The report of the Commanding Officer, "L" Division R.C.M.P., will be tabled in the Legislative Assembly as a separate report.

DEPARTMENTAL DIVISIONS

1. Administration
2. Community and Correctional Services
3. Consumer Services
4. Corporations
5. Crown Attorneys
6. Family Legal Aid
7. Insurance
8. Judicial
9. Legal Services
10. Legislative Counsel
11. Public Defender
12. Registry Offices

ADMINISTRATION

The Administration Division is responsible for the personnel of the Department and ensuring that the Department runs in a smooth and efficient manner. The Division is under the Director of Corporations who, in conjunction with the staff of the Division prepares the annual budget and account for all revenues and expenditures.

Personnel

Director: Edison Shea, CA
Administrative Officer: Kaye MacFadyen
Clerk: Mary-Lynn Smith

COMMUNITY & CORRECTIONAL SERVICES

Introduction

During the year the former Corrections Division was amalgamated with the Probation, Family Court and Young Offenders Services Division to form the Community and Correctional Services Division.

This Division is comprised of three branches:

1) Community Programs;
2) Custody Programs;
3) Special Programs.

COMMUNITY PROGRAMS:

This branch includes the provision of youth and adult probation, Family Court and related services.

At years end field staff of the branch consisted of two Family Counsellors and eleven Probation Officers operating from offices in Charlottetown, Summerside, O'Leary, Montague and part-time offices in Souris and Alberton.

Pre-Sentence/Pre-Disposition Reports

During 1987 Probation Officers conducted assessments and investigations for and submitted 161 pre-sentence reports in response to requests from both Provincial and Supreme Court. This compared with 158 reports in 1986, and 116 reports in 1985. There were 158 pre-disposition reports prepared on Young Offenders for Youth Court compared with 173 reports in 1986 and 150 reports in 1985.

Probation Supervision

On January 1, 1987 there were 595 individual adults (age 18 and over) under the supervision of Probation Officers in the Province with 555 new cases added during the year. This compares with 654 new cases added during 1986 and 646 cases in 1985. In addition there were 219 new young offender cases brought under supervision; this compares with 254 new cases in 1986 and 234 new cases in 1985.

On December 31, 1987, 498 individual adults were under supervision of Probation Officers. This reflects a decrease of 110 individuals over December 31, 1986. At year's end there were also 244 young offender cases under active supervision.

Restitution and/or community service/work was frequently ordered by Judges of Provincial and Youth Court as a condition of probation orders.

During the year caseloads of Probation Officers were reviewed with some cases being closed or terminated thus resulting in a lower number of cases under supervision at year's end. This was part of an effort to streamline assignment of cases and to introduce specialization involving assignment of youth or adult cases to specific staff particularly in the Charlottetown and Summerside offices.

In addition to regular duties performed by Family Counsellors there is increasing interest in and demands on Family Counsellors to participate in mediation procedures in assisting individuals with Family Law difficulties to resolve these problems outside of or in preparation for court proceedings.

Temporary Absence Program

Staff of Probation Services assessed and investigated 287 applications from sentenced inmates of the Provincial Correctional Centre and Prince and Kings County Jails, under the regular Temporary Absence Program. Of these the Department of Justice authorized 228 temporary absences. This compares with 162 in 1986 and 50 in 1985. Of the 228 releases nine were for purposes of employment or paid training; eight for purposes of education; 117 for purposes of treatment (90 alcohol and 27 medical) and 94 for rehabilitative or humanitarian reasons.

There were 10 violations of temporary absence privileges for 1987 as compared to one for 1986 and zero for 1985.

The above releases do not include releases where inmates were escorted by Correctional Officers, Probation Officers or under the general supervision of Community Supervisors in a voluntary capacity, nor do they include releases by the National Parole Board on either day or full parole. As well, these releases do not include inmates released under the Christmas Temporary Absence Program outlined below.

Christmas Temporary Absence

The Christmas Temporary Absence Program established in 1971 where sentenced inmates in provincial institutions were provided the opportunity of spending some time with family and/or friends was continued in 1987. Thirty-eight inmates were provided the opportunity of being released for varying periods of time (7-52 hours).

CUSTODY PROGRAMS BRANCH:

The Custody Programs Branch was formed during the year by amalgamating the Corrections Division with the Young Offenders Services Branch of the former Probation and Family Court Services Division.

This new branch oversees the administration of the Province's adult and young offender custody programs including the following:

Adult

Provincial Correctional Centre: the capacity of this facility was extended from 82 beds to 98 beds during the year. In total, there are 51 full-time and 19 part-time individuals employed by the Centre.

While overall the number of prisoner days in adult facilities increased by 6%, the Provincial Correctional Centre experienced an increase of 20%. This can be attributed in part to the conversion of Kings County Jail to young offenders use.

This placed considerable strain on the Centre's physical, financial and human resources. New programs were initiated in the areas of rehabilitation of impaired drivers, community support projects with senior citizens' homes, and inmates assisted in a project of improving Island waterways through the Fish and Wildlife Division of the Department of Community and Cultural Affairs.

Prince County Jail: the capacity of this facility for adult use during the year was 32 beds. Young offenders continued to occupy the upper portion of this facility during the year despite the opening of Kings County Youth Centre in Georgetown.

Six full-time and three part-time staff are employed in this facility.

Young Offenders

During the year, this division continued to operate interim facilities for young offenders pending construction of new buildings.

In September, 1987, the sod was turned for the Prince Edward Island Youth Centre, a 32-bed secure custody facility located in Summerside. Completion is anticipated in October, 1988.

During the year the following programs/facilities were maintained:

Summerside Youth Centre: this interim open custody facility has a 10-bed capacity and employs 13 staff. This facility operated at capacity virtually throughout the year.

Kings County Youth Centre: this interim secure custody facility with a capacity of 10 beds opened in February, 1987 and employs 11 staff. This facility also was at, or near, capacity at all times and continued to provide basic adult lock-up services to local police forces.

Out-of-Province Placements: the lack of sufficient resources within the Province for the custody of young offenders continued throughout the year.

The practice of sending some youths out of province to serve custody dispositions was challenged through the courts, and as a result, procedures followed in administering this practice were revised.

In total, 12 young offenders were transferred to facilities in New Brunswick, eight were transferred to Nova Scotia and one was admitted to a program in Ontario.

Community Custody Program: this new program initiated during the year involved the placement of selected young offenders, either on probation or open custody, into private homes in the community with additional staff resources allocated to assist the care provider. At an early stage, this program appears to have considerable potential in both preventing the admission of some offenders to more restrictive programs and also of providing an out-placement resource for those exiting youth facilities.

Statistics

The following are statistical tables of the number of prisoner admissions to the Correctional Centre and each jail during the year under the categories of: (1) Lock-up (police arrestees held prior to court appearance, federal parole violators, immigration detainees); (2) Court Remands; and (3) Sentenced. Only status upon original admission is counted. Prisoners who change from lock-up to remand or sentence status or from remand to sentence status without release are not re-counted under their new category.

Of the 148 remand admissions during the year, 118 eventually changed to sentenced status without release. They do not appear in the sentenced column of Table "A".

The number of prisoners held before transfer to a federal penitentiary was 48. Of these, 35 were sentenced by Prince Edward Island courts, 13 were federal parole violators. The corresponding numbers in 1986 were 15 and 15.

There were no prisoner deaths in the Province during the year. Staff dealt with three genuine suicide attempts.

There was only one escape involving adult prisoners from within an institution (Provincial Correctional Centre) during the year, with two prisoners involved. There were three runaways from outdoor/community activities, compared to five in 1986.

The per diem billing rate for holding a prisoner for the year of September 1, 1987 to August 31, 1988 is $89.95 (no change from last year).

Table "B" is a statistical table of the number of days served by prisoners in 1986 in each jail and the Correctional Centre under the categories of: (1) Lock-up; (2) Remand; and (3) Sentenced.

Volunteers from several religious groups and denominations, as well as many other organizations, associations and individuals, gave freely of their time to be involved in various ways in the operation of the youth and adult facilities and their programs. To these groups and individuals, as well as government departments and divisions also involved, the Department is extremely grateful.

Table "C" is a statistical table of the number of offender days in each young offenders custody program/location.

TABLE "A"
(PRISONER ADMISSIONS)

	LOCK-UPS		REMAND		SENTENCED	
	1987	1986	1987	1986	1987	1986
Provincial Correctional Centre						
Adult						
Male	1067	1065	82	57	901	739
Female	59	42	4	4	73	57
TOTAL	1126	1107	86	61	974	796
Prince County Jail						
Adult						
Male.....	531	585	57	55	465	504
Female	26	27	1	1	0	6
TOTAL	557	612	58	56	465	510
Kings County Jail						
Adult						
Male.....	114	236	2	18	4	279
Female	5	7	0	3	2	6
TOTAL	119	243	2	21	6	285
Total 2 Jails + Provincial Correctional Centre						
Adult						
Male.....	1712	1886	141	130	1370	1522
Female.....	90	76	5	8	75	69
TOTAL.....	1802	1962	146	138	1445	1591

TABLE "B"
(PRISONER DAYS)

	LOCK-UPS DAYS		REMAND DAYS		SENTENCED DAYS	
	1987	1986	1987	1986	1987	1986
Provincial Correctional Centre						
Adult						
Male	1170	1159	2992	2559	26990	21880
Female	59	42	49	83	909	877
TOTAL	1229	1201	3041	2642	27899	22757
Prince County Jail						
Adult						
Male.....	578	730	843	823	7122	5306
Female	26	28	0	1	0	6
TOTAL	604	758	843	824	7122	5312
Kings County Jail						
Adult						
Male.....	118	243	5	174	16	2273
Female	5	7	0	13	29	18
TOTAL	123	250	5	187	45	2291
Total 2 Jails + Provincial Correctional Centre						
Adult						
Male.....	1866	2132	3840	3556	34128	29459
Female.....	90	77	49	97	938	901
TOTAL.....	1956	2209	3889	3653	35066	30360

TABLE "C"
(TOTAL DAYS BY YOUTH FACILITY)

	LOCK-UP	REMAND	OPEN CUSTODY	SECURE CUSTODY	FACILITY TOTAL
PRINCE EDWARD ISLAND YOUTH CENTRE	-	-	3539	-	3539
KINGS COUNTY YOUTH CENTRE	4	424	-	2629	3057
COMMUNITY PLACEMENTS	-	24	2868	5	2897
OUT OF PROVINCE	-	-	42	2096	2138
ADULT FACILITIES	61	825	-	1001	1887
TOTAL	65	1273	6449	5731	13518

SPECIAL PROGRAMS

Justice Resource Service

During the year the activity of the Justice Resource Service focused on a Community Crime Prevention through a joint program of the Solicitor General of Canada and the Provincial Department of Justice.

The intent is to develop a province-wide crime prevention strategy over a three-year period. The project will focus on family violence, youth and drinking and driving, with the overall objective of increasing community involvement in these and related issues. The program will provide consultation, resources, and other support to local communities in developing community based programs.

The program is based on the concept that communites can solve many of their own problems. The model relies on police liaison with community organizations and the involvement of other justice agencies to develop solutions as close as possible to the source of the problem.

The emphasis will be on working with existing programs and organizations to increase public awareness, interest and action in community crime prevention.

The Justice Resource Service is staffed by a full-time worker based in Charlottetown and a half-time worker in Summerside.

Victims Assistance Program

Work continued on developments toward a possible integrated victims service program with an emphasis on assistance and information to victims of crime as well as preliminary examination of compensation for victims who suffer physical injuries arising out of criminal behaviour.

This work is funded in the main by the Federal Departments of Solicitor General and Justice and has been guided by an Advisory Committee.

The work of the Committee resulted in a number of publications, policies and procedures to assist victims during their involvement with the Criminal Justice System as well as recommendations outlining ways to fill identified gaps in and approaches to coordinating services.

Integrated Justice Information System

A project to develop an automated provincial central registry for youth court records as well as a fines management system in Provincial Court, Charlottetown became a fully operational program in 1987. This was the first concrete stage toward the development of an integrated justice information system in the province. Further work has been done to expand this system to Summerside and to adopt the central registry concept to adult court records. This work, to continue in 1988, has been funded in part by the Federal Department of Justice and the Canadian Centre for Justice Statistics, Ottawa.

Safe Driving Project on Impaired Driving

With financial assistance from the Impaired Driving initiative of the Federal Department of Justice and with the guidance of an Advisory Committee to the Minister of Justice and Attorney General, a thorough examination of the complex issue of impaired driving in the province was initiated.

The project will attempt to coordinate intervention on drinking and driving in the province by focusing on the examination of existing services and agencies, consulting with community and other groups through public meetings and written briefs and to research and develop a demographic profile and statistical analysis of the drinking driver.

It is expected that a strategic plan, including recommendations for continuing a coordinated approach in the future to deal with drinking and driving in the province will be developed for government's consideration.

Youth Court Clinic Project

With the proclamation of the Young Offenders Act (Canada) in 1984 came concerns as to the adequacy of assessment and treatment resources and services in the province for young offenders.

Accordingly, a project was initiated in 1987 to review and develop approaches as to how best the youth courts and young offenders programs can satisfy its requirements arising out of the Young Offenders Act for assessment, treatment and related resources.

This project, which will run until March 1989, is supported by financial assistance from the Young Offenders Program in the Federal Department of Justice.

Continuing Initiatives for 1988

In addition to demands arising out of ongoing programs of the Division, particular attention will be directed toward the following in 1988:

1) The very demanding challenge in staffing youth centres.

2) A review of programs at the Provincial Correctional Centre.

3) The development of alternatives to imprisoning individuals for non-payment of fines.

4) Continued development toward a staff development and training plan for the Division.

5) Continued development in implementing a Performance Appraisal System or Process for the Division.

6) Examination of mediation as a support to the work of Family Court Services.

7) A review and update of policy and procedures in adult facilities and in probation services.

8) A review toward upgrading Prince County Jail.

PERSONNEL:

Director: Phil Arbing
Secretary: Jeannene Ferguson

CONSUMER SERVICES DIVISION

A. ACTS ADMINISTERED

The Consumer Services Division of the Department of Justice is responsible for the administration of the following laws:

Auctioneers Act	**
Bills of Sale Act	
Business Practices Act	
Cemeteries Act	**
Charities Act	**
Collecting Agencies Act	**
Conditional Sales Act	
Consumer Protection Act	**
Consumer Reporting Act	**
Direct Sellers Act	**
Lottery Schemes Order	**
Prearranged Funeral Services Act	
Sale of Goods Act	
Part X, Bankruptcy Act	*
Tax Rebate Discounting Act	*

NOTE: * - Federal Statute
** - License or Registration Requirement

B. PROGRAM STATISTICS AND COMMENTS:

1. LICENSING AND REGISTRATION:

		1986	1987
a)	Direct Sellers Licensed	253	98
b)	Collecting Agencies Licensed..	5	5
c)	Consumer Reporting Agencies Licensed	4	4
d)	Auctioneers Licensed	40	42
e)	Lottery Licenses Issued (Bingo's, raffles, lotteries)		522

2. CONSUMER COMPLAINTS AND INQUIRIES:

a) Complaints:

		1986	1987
i)	Motor vehicle sales & repairs..	171	155
ii)	Home construction & renovations	36	31
iii)	Appliances - sales & service..	54	49
iv)	Mail order/direct sales.....	174	191
v)	Collections/credit.....	71	64
vi)	Financial/debtor problems.....	107	119
vii)	Other.....	499	559
	TOTAL.....	1112	1108

b) Inquiries:

	1986	1987
TOTAL.....	1216	1410

3. ORDERLY PAYMENT OF DEBTS PROGRAM - PART X OF THE BANKRUPTCY ACT:

		1986	1987
a)	Funds Disbursed to Creditors..	$86,659.49	$88,853.00
b)	Debtor Interviews & Reviews...	108	91

In 1987, six new Consolidation Orders (new files) were issued as compared with nine in 1986. Twelve clients retired their debts in full during 1987 for a net reduction in active paying clients.

C. CONSUMER EDUCATION AND INFORMATION:

During 1987, the staff of Consumer Services spoke to twenty-four different groups and educational institutions. These included Holland College, Police Academy, Community Schools and Pre-Retirement courses across the province.

D. 1987 FEDERAL-PROVINCIAL-TERRITORIAL CONFERENCE OF MINISTERS RESPONSIBLE FOR CONSUMER & CORPORATE AFFAIRS:

This Conference was hosted by Prince Edward Island on June 9th and 10th, 1987. Hon. Wayne Cheverie, Q.C., Minister of Justice, co-chaired the conference with the Hon. Harvie Andre, the Federal Minister of Consumer & Corporate Affairs. Sixty delegates and staff attended this National Conference. The Federal, Provincial and Territorial Ministers have been meeting annually for twelve years and this was the first time that the Conference has been hosted by Prince Edward Island.

The Agenda dealt with a number of consumer issues, including video classification, credit disclosure in advertising, third party extended warranties, charitable solicitations, credit card interest rates and revisions to the Bankruptcy Act.

E. LEGISLATIVE REFORM:

On May 14th, 1987, the Consumer Protection Act was amended to allow a consumer to request that his/her mortgage loan be transferred to another lender. This change enables a consumer to take advantage of mortgage switching programs offered by several financial institutions in that they need not pay out their mortgage and incur extra legal expense in having a new

mortgage prepared and another title search conducted. Now a consumer can request that the existing mortgage be assigned (transferred) to another lender and the maximum fee for this transfer is $25.00.

On July 1, 1987, the amendments to the Consumer Protection Act and the revised regulations became law. These changes bring the provincial disclosure requirements in line with those in the Bank Act Regulations. New disclosure forms, similar to those in the Bank Act Regulations, are now in use for vendor credit, consumer loans and residential mortgages.

In case of variable rate credit, pre-notification of a rate change is required on credit cards and post-notification for consumer loans and mortgages. Pre-computed Sum of the Digits loans are abolished and all loans are now interest bearing.

F. Personnel

Director - Eric Goodwin
Consumer Services Officer - Edna Lord
Secretary-Receptionist - Marlene Hughes

CORPORATIONS DIVISION

Acts Administered

The Corporations Division of the Department of Justice is responsible for the following Acts:

Companies Act
Condominium Act
Co-operative Associations Act
Corporation Securities Registration Act
Credit Union Act
Licensing Act
Limited Partnerships Act
Partnership Act
Securities Act
Winding Up Act

Companies Act Statistics

Following are statistics which pertain to the various statutes administered by the Corporations Division:

	1987	1986
- Incorporations during the year		
Business Corporations	322	320
Not-for-profit corporations	25	28
Total new corporations	347	348
- Certificates of good standing under the Companies Act and Licensing Act	263	200
- Annual returns filed under section 80 of the Companies Act	2,527	4,571

The number of incorporations during 1987 was about the same as the previous year. Most of the other filings under the Act were about the same as they were in 1986, except for annual return filings which decreased from the previous year. This decrease is due to the earlier campaign by the Department to have all companies bring their records up to date and filings have now levelled off to what they should be on an annual basis.

Co-operative Associations Act

There are some 80 active co-operatives in the Province and those are reported on separately in the Annual Report of the Inspector of Co-operatives, which is normally also tabled in the Legislature.

During 1987 there were 7 new co-operatives incorporated and 10 were incorporated in 1986.

Corporations Division staff continue to work closely with co-operatives, especially through the Co-operative Union of Prince Edward Island, which acts as the voice of the co-operative movement in Prince Edward Island.

Corporation Securities Registration Act

Registrations under this Act totalled 303 in 1987 and 299 in 1986. In 1987 there were 102 certificates of status issued and in 1986 there were 60 issued.

Credit Union Act

The Credit Union Act is administered by the P.E.I. Credit Union League Limited, which also carries out inspections of credit unions. A separate report on credit unions, as compiled by the League, is also presented in the Legislature.

The Credit Union League staff communicates regularly with the Department to keep it informed about the credit union movement.

Licensing Act

All out-of-province businesses carrying on business in this province are required to register under the Licensing Act regardless of whether they have an office or employees in the province. Such business organizations include banks, trust companies, loan companies, finance companies, chain stores, oil and gas companies, construction companies, manufacturers and generally all corporations not incorporated under the laws of this province and having their head office or chief place of business located outside the province.

	1987	1986
Corporations and businesses registered under this Act	1,970	1,999

Partnership Act

The business names of sole proprietorships and partnerships are registered under the Partnership Act as well as the trade names of corporations.

	1987	1986
Declarations of proprietorships, partnerships and trade names filed during the year	789	650
Dissolutions Filed	149	161

Securities Act

The Securities Act regulates the sales of securities to the public and provides for the licensing of brokers and salesmen.

The following registrations and filings were made under the Act:

	1987	1986
Licenses issued		
- resident salesmen	89	67
- non-resident salesmen	20	21
- brokers	29	28
Prospectuses registered	573	395
Prospectus amendments registered ..	91	44
Certificates of exemption from full prospectus requirements	85	57

Revenue

The Corporations Division collects fees under the various statutes it administers with revenue expected for the fiscal year ending March 31, 1988 of $556,000 and revenue for the fiscal year ending March 31, 1989 will total about $629,000.

Other

Corporations Division staff spend a significant amount of time responding to inquiries from the public as the information filed in the Division is public information. Requests for information about corporations, co-operatives, partnerships, or other matters come from the legal and accounting professions, other government departments, police authorities, businessmen, bankers and other financial institutions and the public at large.

Inter-Government Conferences

The Director of Corporations or the Corporations Officer attended the 1987 Annual Conferences of the Canadian Securities Administrators, the Administrators of Co-operative and Credit Union Legislation and the Canadian Corporation Law Administrators.

These meetings are invaluable as there is much knowledge to be gained from administrators in the larger provinces where the various administrators specialize in the administration of securities law, company law, etc. In the smaller provinces such specialization is not practical for financial reasons.

These administrators' conferences are useful for exchanging information and developing uniform policies to ease the burden on business organizations which often operate in several provinces in Canada.

Personnel

Director - Edison Shea
Corporations Officer - Merrill Wigginton
Corporations Records Supervisor - Sandra Furlotte
Administrative Assistant - Sheila MacNevin
Secretary - Kay Constable
Secretary - Norma MacMillan
Secretary - Lori Stewart

CROWN ATTORNEYS

There are four Crown Attorneys responsible for prosecuting all criminal cases under the Criminal Code of Canada and provincial statutes. The Crown Attorneys' Office is located at 42 Great George Street in Charlottetown and at the Court House in Summerside.

Personnel

Director of Crown Attorneys - Richard B. Hubley, Q.C.
Crown Attorney - Darrell Coombs
Crown Attorney (Summerside) - David O'Brien
Crown Attorney - Agnes MacDonald
Secretary - Linda Peters

SEVENTH ANNUAL REPORT
Prince Edward Island Family Legal Aid
April 1, 1986 to March 31, 1987

This is the seventh annual report of the family legal aid program in Prince Edward Island. The service was initiated through federal start-up money in 1980 and continued by the province since then in conjunction with the criminal legal aid program.

Program Structure

The family legal aid program is an extension of the public defender program which has provided cost-shared legal aid in criminal matters in this province since 1973. Legal service for both programs is provided by the full-time staff of three lawyers and two secretaries. Administrative and accounting services are provided by the Provincial Justice Department.

The program is administered by the Director of Legal Aid (a staff lawyer), who reports to the Deputy Minister of Justice.

Objectives

The objective of funding legal aid in family law is similar to the stated objective of criminal legal aid - to provide access to the law. In particular, the objective is to enable individuals to exercise and protect their basic rights under family legislation. The program attempts to make free legal services available to eligible persons to the extent that a reasonable person of modest means would pay his or her own lawyer if faced with the same legal problem. This is the stated objective of legal aid throughout Canada.

The achievement of that objective is subject to staff and budgetary limitations. The policy of restraint and cutbacks in government programs was already in place when this program was initiated in the early 80's. Consequently, this province has been unable to achieve the level of service provided in provinces where family legal aid was fully established during the period of expansionary growth in social spending in the early to mid-70's.

Eligibility

Eligibility is restricted to persons already on social assistance or who might be eligible for such assistance if required to pay the probable costs of representations by private counsel.

Priority for assistance is given to applicants whose legal problem involves dependent children.

Legal aid may be refused in any situation where a reasonable individual of modest means faced with a similar problem would probably not pay from his own pocket to obtain the assistance requested.

Experience to date has shown that the greatest restriction is the lack of staff to provide assistance even where financial eligibility is established. This problem intensified during the past year due to increasing demands on staff time under the Young Offenders Act. To service that demand, staff time has to be taken from areas of the family program, where assistance was being provided on a discretionary basis.

Coverage

Coverage is limited to matters within the jurisdiction of the Family Division of the Supreme Court. Generally, this involves the Divorce Act, Family Law Reform Act, Custody, Jurisdiction and Enforcement Act, and the Family and Child Services Act. Priority is given to any application under the latter Act because of the potentially serious consequences involved in the outcome of each case. Legal representation is considered essential in child welfare cases because the opposing party is the State.

Involvement of Private Counsel

Legal aid staff lawyers may represent only one party in any dispute. The same restriction applies to law firms in private practice. In some cases more than one party seeks legal aid. The program has a small budget to service those cases by hiring private counsel on a tariff basis.

Legal Aid in Other Provinces

Before the introduction of family legal aid, a Prince Edward Island resident would not be eligible for that assistance outside the province. Under an inter-provincial agreement, residents of Prince Edward Island now have the opportunity to obtain legal aid in any province of Canada. A condition of the program is that similar service must be available to non-residents in this province.

The Number of New Files Opened

There were 210 new files opened in 1986/87. This number includes only those cases where legal action was commenced through correspondence, negotiation, or court action. The figure does not include telephone and office consultations where summary advice was given without any file being opened.

Family cases tend to be difficult to settle quickly. Most cases take several months to resolve and in some, work proceeds beyond the year in which the file was opened. By nature, the practice of family law differs from other areas of litigation in that the circumstances of the litigants may continue to change and bring about new difficulties. Consequently, the capacity of the program to take new cases may be less in each successive year.

Telephone Inquiries

The provision of summary legal advice by phone is an important aspect of the program. The majority of applicants call in the initial stages of family break-ups. Typically, the caller will state "I just want to know my rights." Early advice and appropriate referrals to other agencies may provide reassurance to the callers and enable them to resolve their own difficulties before they lead to costly litigation. In the Charlottetown Office alone, figures recorded in 1985/86 showed that more than 600 people used this service. Persons for whom a correspondence or litigation file was opened during the 1985/86 fiscal year are not included in those numbers. Statistical estimates of telephone inquiries are not available for the Summerside Office, however, the demand patterns appeared to be similar.

Family Legal Aid Activity

	85/86	86/87
1. NUMBER OF PERSONS FOR WHOM NEW FILES WERE OPENED	158	210
2. TYPE OF APPLICATION:		
Matrimonial: Includes Divorce, Separation, Custody and other family matters	88%	88%
Child protection cases: Family & Child Services Act....	12%	12%

	85/86	86/87
3. NUMBER OF PERSONS WHO REQUESTED TELEPHONE ADVICE WHERE NO FILE WAS OPENED - (Charlottetown Office only)		
Family.....	386	not available
Civil.....	246	not available
4. REGIONAL DISTRIBUTION OF SERVICE	No. of Files	
Charlottetown.....	99	115
Summerside.....	59	95
5. RATIO OF MALE TO FEMALE CLIENTS		
Male.....	11%	18%
Female.....	89%	82%
6. NUMBER OF CASES WHERE PRIVATE COUNSEL ACTED THROUGH LEGAL AID.....	5	11
7. NUMBER OF INTER-PROVINCIAL REQUESTS		
To other provinces.....	2	11
From other provinces.....	5	5
8. TOTAL LEGAL AID EXPENDITURES		
Criminal & Family..... (unaudited)	$197,717	$269,002

SUPERINTENDENT OF INSURANCE

Insurance

	1987	1986
Companies registered and licensed.....	274	246
Applicants examined	127	157
Insurance agents' licenses issued.....	307	303
Insurance adjusters' licenses issued....	44	41

COMMENTS:

Automobile insurance premiums were up in 1987 due to loss experiences in recent years. However, some improvement can be seen in the 1987 experience. While market conditions have

improved, difficulties continue to be experienced in areas of liability cover, especially pollution or environmental impairment. The Self Insurance Program (SIP) established last year continues to work well. Government, school units and hospitals continue to be covered under the program.

The Province of Ontario has now received the Task Force Report on Insurance and a number of the recommendations are presently being implemented. As most of the insurance company offices are located in Ontario, any action taken there will have an influence and impact in other provinces. This office will continue to monitor the situation closely.

The Canadian Council of Superintendents of Insurance in conjunction with the Insurance Bureau of Canada and other segments of the industry have been working to establish a Compensation Fund for all of Canada. The Fund would indemnify claimants of insolvent insurer and would be funded by an assessment on all licensed insurers. This plan will become operational in 1988. A similar Compensation Fund developed in conjunction with the Canadian Life and Health Insurance Association for the life and health industry is expected to be operational in late 1988.

The Facility Association which is designed to cover high automobile risks continues to work well and no major problems are being encountered.

The detailed report of the Superintendent for 1986 is provided separately and licensing statistics for 1987 are set out above. Of particular note is the constant progress made by the Prince Edward Island Mutual Fire Insurance Company during the year. The Company is well managed and this year celebrates the 103rd Anniversary of its founding.

The Practice of examining applicants for agents' licenses continues for all classes, and we believe this has greatly improved the calibre of agents and reduced the turnover which was so prevalent in the past.

All persons adjusting insurance claims in the Province must hold a valid license.

The Superintendent attended two national meetings of the Council of Superintendents along with a number of Committee meetings. As Chairman of the Council for 1987, we were pleased to host the 70th Annual Conference in September with 347 delegates and 152 guests in attendance.

Premium and Fire Prevention Tax

	1987	1986
Premium tax collected.....	$1,381,637.71	$1,232,153.04
Fire prevention tax collected.....	101,102.23	91,942.74
Totals	$1,482,739.94	$1,324,095.78

COMMENTS:

Premium tax at the rate of 2% is collected on all insurance premiums, except fraternal and marine written in the province. The Fire Prevention Tax, which is assessed at 3/4 of 1% of the total fire premiums, is basically designed to defray expenses of the Provincial Fire Marshall's office. The increase in Premium Tax and Fire Prevention Tax is due to the increase in premium income.

Official Trustee

The services of the Official Trustee continue to increase during the year with 121 active accounts. Funds held in trust fluctuate and averaged $709,000 over the period. Excess funds are invested in Deposit Receipt Certificates with the Minister of Finance and at year end amounted to $685,000.

The accounts are reviewed annually by the Auditor General and his report is available elsewhere.

We continue to enjoy a close working relationship with the Division of Aging of the Department of Health and Social Services, and as a result, we are able to better control the assets of patients or guests who are considered incompetent. The role of the Official Trustee is increasing as all persons admitted to government homes that are considered incompetent are declared before admission. He is also called upon to represent estates of deceased persons in certain actions and of course, continues to act as Administrator of Estates when no one else is available or qualified. The Official Trustee is also appointed Guardian in some situations, especially in the case where emergency surgery is considered necessary.

The Advisory Committee is consulted from time to time as the need arises.

Real Estate

The Superintendent of Insurance also administers the Real Estate Trading Act. Sales by agents during 1986 increased to more than 101 million dollars. Another good year is expected

in 1987. Sales commissions for 1986 amounted to nearly 4.7 million dollars. An unknown number of properties are sold privately and those, of course, are not included in the figures given.

Two hundred and sixty agents and salespersons were licensed in 1987, which is an increase over the previous year. New applicants must be bona fide residents and are required to pass a written examination, which is written in this office by appointment. All agents and salespersons are bonded. A total of 62 examinations were written in 1987.

Personnel

Superintendent of Insurance - W. Bennett Campbell
Secretary - Marlene Phelan

JUDICIAL DIVISION

FUNCTION AND ORGANIZATION

This division is responsible for the design and maintenance of an administrative structure that meets the needs of all courts throughout Prince Edward Island. Its primary and continuing objective is to make appropriate and effective use of personnel and other resources to develop and manage a comprehensive court services program throughout the Province.

The overall strength of personnel in the division is 29 with distribution of being as follows:

	Prothonotary	Legal Services Officer	Judicial Clerk 1	Judicial Clerk 2	Judicial Clerk 3	Court Stenographer	Sheriff	Clerk & J.P. (Part-time)	TOTAL
Charlottetown.....	1	5	1	-	4	7	1	-	19
Summerside.....	-	1	-	-	2	2	1	-	6
Alberton.....	-	-	-	-	-	-	-	1	1
Georgetown.....	-	-	-	-	1	-	-	1	2
Souris.....	-	-	-	-	-	-	-	1	1
	1	6	1	0	7	9	2	3	29

The personnel provide the courts with support services, some of which are as follows:

1. GENERAL ADMINISTRATION

   - budget and expenditure control
   - personnel transactions
   - equipment supply, purchases, etc.

2. JUDICIAL ADMINISTRATION

   - taxation of costs on solicitor-client and party-party basis
   - bankruptcy and discovery
   - supervision over court officers
   - Justices of the Peace.

3. COURT RECORDS

   - registration and maintenance.

4. DOCKETING AT SUPREME COURT LEVEL.

5. STENOGRAPHIC AND SECRETARIAL AND CLERK OF THE COURT.

6. SHERIFF SERVICES

   - jury impanellment
   - process servers
   - execution of court orders

7. FINANCIAL RECORD MANAGEMENT

   - approximately $3 million annually at both court levels.

A very significant development occurred in the life of the Supreme Court of this Province in 1987. On October 1, 1987, the new Supreme Court Act and amendments to the Federal Judges Act were proclaimed. As a result, the Supreme Court was divided into two divisions, the Trial Division and the Appeal Division, and the practice of the court sitting on appeals In Banco was abolished.

Mr. Justice MacDonald became Chief Justice of the Trial Division with Justices Campbell, Mullally and McMahon, members of the Trial Division.

Norman H. Carruthers became Chief Justice of the Appeal Division, with Justices McQuaid and Mitchell, members of the

Appeal Division. Mr. Justice Large remains as a supernumerary justice of the court until his retirement in 1988.

On behalf of all members of the Supreme Court, I extend our thanks to the Provincial Minister of Justice, the Honourable Wayne D. Cheverie, Q.C. and the Federal Minister of Justice, The Honourable Ray Hnatyshyn for making these changes possible.

APPEAL DIVISION

CIVIL APPEALS:

		1987	1986
Appeals filed		40	50
Abandoned without a hearing		15	10
Heard		12	22
Judgments given		8	-
Reserved for judgment as of December 31, 1987	(on merits)	4	2
	(on costs)	3	-
Adjourned to a date to be fixed		7	-
Notices of Appeal filed and not set down		17	-
Appeals set for hearing in 1988 as of December 31, 1987		20	-

CRIMINAL APPEALS

	1987	1986
Appeals filed	70	40
Abandoned without a hearing	15	10
Heard	28	16
Judgments given	26	-
Reserved for judgment	2	-
Notices of Appeal filed and not set down	9	-
Appeals set for hearing in 1988 as of December 31, 1987	8	-
Adjourned to a date to be fixed	3	-

The members of the Appeal Division do the following: uncontested matters in the Trial Division; uncontested Chambers on Tuesdays and Thursdays; uncontested divorces; weddings; and the work of the Estates Division.

TRIAL DIVISION

FAMILY SECTION:

	1987	1986	1985
Files Opened	730	682	572
Divorce petitions	307	278	223
Adoption petitions	63	66	58
Weddings	88	82	60
Change of name applications	58	49	48
Family Law Reform Act applications	69	78	62
Family & Child Services Act applications	61	45	52
Maintenance Enforcement applications	72	72	59
Custody, Jurisdiction & Enforcement Act	19	10	-
Other	3	2	-
Written decisions	18	-	-
Oral decisions	23	-	-
Collected for Maintenance payments	$374,903.34	$349,630.55	$301,835.89

ESTATES SECTION:

	1987	1986	1985
Applications for Probate	346	350	393
Applications for Administration	135	145	114
Reseal of foreign grants	13	4	14
Total # of Grants Issued	494	499	521
Applications for hearing to pass final accounts	36	24	45
Total # of Petitions filed	530	523	566
Probate fees charged	$86,439.07	$109,405.30	$89,548.91
Value of estate assets	$27,752,308.	$34,516,492.	$29,477,405.68

GENERAL AND SMALL CLAIM SECTIONS:

	1987	1986	1985
New files opened	1743	1911	2343
Default judgments	702	910	962
Defences filed	245	-	-
Small Claim Trials held	46	65	63
General Civil Trials held	60	83	63
Speedy Trials heard	67	34	23
Summary Conviction appeals heard	42	27	22
Jury Trials	6	2	-
Chattel Mortgages Registered	19,039	17,868	17,714
Conditional Sale documents registered	7530	8148	9646
Book Debt Registrations	1869	1899	1901
Chamber Applications (includes family)	998	914	992

PROVINCIAL COURT FINES COLLECTED:

	1987	1986	1985
Charlottetown:	$457,259.36	$490,382.56	$633,613.23
Summerside:	349,256.34	359,230.58	334,035.14
Georgetown:	114,991.03	114,467.49	125,678.76
Souris:	78,946.15	84,398.94	74,996.50
Alberton:	123,834.87	131,657.88	110,505.95

PERSONNEL:

Prothonotary of the Supreme Court and Chief Judicial Officer:	George MacMillan
Registrar, Estates Division:	Collette Vessey
Registar, Family Division:	Debbie Conway

LEGAL SERVICES DIVISION

Legal Services are provided to the Premier's Office, Executive Council, Government Departments and some Crown Corporations and Agencies by lawyers employed in the Legal Services Division.

The Division has assigned solicitors to serve specific departments of Government in order to provide a degree of specialization which would not otherwise be possible.

The Legal Services Division represented Government in 1987 on litigation before the various divisions of the Supreme Court of Prince Edward Island and the Supreme Court of Canada. It also represented Government before various administrative tribunals and provided legal advice to others. Legal opinions and advice were provided on a full range of other matters to Government.

Significant developments in 1987 included the assumption of responsibility for the provision of legal services to the Self-Insurance Plan. Staff changes saw Departmental Solicitor Linda M. Gaudet seconded to Treasury Board for a period of three years and the hiring of Valerie M. Moore to fill the position.

Personnel

Director of Legal Services - Charles P. Thompson
Departmental Solicitor - Judith M. Haldemann
Departmental Solicitor - Roger B. Langille
Departmental Solicitor - Valerie A. Moore
Legal Secretary - Deborah L. Gillespie

LEGISLATIVE COUNSEL

The 1987 Session was the most productive in the 214 year history of the Legislative Assembly of Prince Edward Island. A total of 91 public bills was drafted, of which 72 were enacted, 9 died on the order paper or were referred to committee for further study and 10 were not introduced. Five private Acts were enacted.

Many bills progressed through a number of drafts before introduction. A total of 235 separate drafts was prepared. The Legislative Counsel also prepared 19 draft amendments of bills before the Legislative Assembly.

Much of the time of staff of the office of the Legislative Counsel is taken up by the preparation of the statutes in loose-

leaf form. The 1987 Session involved the replacement of over 800 pages in the looseleaf consolidation of the statutes.

The Legislative Counsel is also responsible for drafting all regulations, rules and orders of a legislative nature made pursuant to statutory authority. The production of regulations is not a cyclical activity. Many regulations are quite lengthy, those made under the Occupational Health and Safety Act occupied more than 100 pages.

The Legislative Counsel represented the province at Canadian Law Information Council meetings and various other Federal/Provincial meetings relating to the Charter of Rights.

Personnel

Legislative Counsel - M. Raymond Moore
Secretary - Marina G. Bears
Legislative Editor - Leona E. Nicholson

REPORT OF THE OFFICE OF THE PUBLIC DEFENDER PROVINCE OF PRINCE EDWARD ISLAND

April 1, 1986 to March 31, 1987

This was the fourteenth year of the public defender program in Prince Edward Island. The service is cost shared under a Federal-Provincial agreement which applies in all provinces.

Objective

The objective of the criminal legal aid program is to ensure equality before the criminal law throughout Canada by making lawyers available to individuals who would otherwise be unable to afford legal representation. The program is designed to promote the development of national minimum standards in the delivery of criminal legal aid.

Eligibility

The legal aid agreement between Canada and the province specifies that eligibility for legal assistance is to be determined by a flexible means test. In this province the test is conducted by a staff lawyer who must weigh the seriousness of the legal proceedings and then consider whether the applicant's present means should be sufficient to actually obtain private counsel.

How Service is Obtained

To obtain service, the applicant must contact a staff lawyer in the same manner as a paying client would contact a private practitioner. Contrary to a common misconception, the courts do not assign cases to legal aid staff lawyers. Although legal aid has become an integral part of the justice system, the program is run independently from the courts.

Choice of Counsel

Legal services are provided by three staff lawyers. Private counsel are retained in a small percentage of cases where a scheduling problem or a conflict prevents a staff lawyer from acting. It is only in murder cases that the applicant is given the choice of being represented by private counsel.

Offices

Full-time offices are maintained at the Law Courts Buildings in both Charlottetown and Summerside. On court days, staff lawyers also travel to Alberton, Souris and Georgetown, if there are requests for assistance.

Cost-Sharing Formula

The federal-provincial cost-sharing agreement has been renegotiated every few years. The same cost-sharing formula applies across the Country but the level of federal contribution varies, depending on provincial per capita expenditures and other factors under a complex formula. Canada's share of criminal legal aid expenditures in this province has consistently been in the range of 85 to 90 per cent. For the Country as a whole, Canada's contribution has been in the range of 45 to 55 per cent since 1973.

Young Offenders

The Young Offenders Act, which was proclaimed in April 1984, has continued to place increasing demands on the resources of the program. Although previously, service was provided to the same age groups under the Juvenile Delinquents Act and the Criminal Code, the new Young Offenders Act has created a greater demand for legal assistance. The Young Offenders Act obliges police officers and the courts to advise young offenders of their right to counsel at all stages of the proceedings from arrest to trial. In addition, the Young Offenders Act contains several safeguards to ensure that young offenders are given the benefit of any doubt where their eligibility for free legal counsel is in issue. Experience to date seems to indicate that

when these procedures and other factors are considered, most young offenders are eligible for legal aid. All legal aid services under the Young Offenders Act are cost shared by Canada on terms similar to the present adult criminal legal aid agreement.

Cases Completed

The following cases were completed during the year. The definition of a case varies from province to province. In this province each separate charge is counted as a separate case. An applicant may have several charges arising from one incident. Likewise, charges from several incidents are often dealt with by the court at one time. In either situation the number of cases is equal to the number of charges. An appeal is also recorded as a separate case. Applications involving cases carried over from a previous year are not recorded in this report until the year in which the file is completed. In any instance where the same applicant requests assistance more than once within a year, an additional application is recorded. During the past year, 36 individuals requested assistance on more than one occasion.

Young offender cases are shown under each separate offence category in this report due to the increases in their numbers. In previous reports young offender statistics were not broken down by offence categories.

	Number Completed			
	85/86		86/87	
	YOA	ADULT	YOA	ADULT
Unlawful homicide	1	-	-	3
Robbery	-	26	5	6
Theft, Possession of stolen goods	118	166	163	136
Break and enter	184	71	149	145
Fraud, false pretences	46	147	12	221
Drunk and impaired driving ...	5	131	8	85
Other motor vehicle.....	2	21	10	52
Escape - unlawfully at large..	5	21	12	13
Cause disturbance.....	14	28	8	25
Assaults (including sexual assault)	26	74	21	88
Resisting arrest	2	13	1	11
Arson	1	2	2	4
Property damage	73	44	41	47
Breach probation	5	10	21	16
Dangerous and prohibited weapons	3	7	4	6
Narcotics	9	36	6	31
Sentence review YOA	8	-	6	-
Others	4	85	8	130
TOTALS	506	882	477	1,019

Summary of Legal Aid

	85/86	86/87
Number of files (separate applications) completed and closed during the year.....	676	687
Number of cases (separate charges or appeals) completed in the above files.....	1388	1496
Cases where private counsel participated at some stage...	22	43
Percentage of cases handled in whole or in part by private counsel.....	1.5%	2.8%
Number of private counsel who participated.....	13	14
Cost of service rendered by private counsel.....	$10,281.84	$40,582.88

Number of Applications by Region

	85/86	86/87
Charlottetown.....	324	369
Summerside.....	238	224
Alberton.....	40	20
Georgetown.....	52	65
Souris.....	22	9

Age of Recipients

	85/86	86/87
12-17 years	35%	32%
18 - 19 years	10%	11%
20 - 25 years	28%	27%
over 25 years	27%	30%

Total Criminal Legal Aid Expenditures (unaudited)

85/86	86/87
$157,217	$216,508

CHARLOTTETOWN & SUMMERSIDE REGISTRY OFFICES

The division's responsibilities are to administer the Kings, Queens, and Prince County Land Registry Offices.

For Year Ending 31 December 1987

Documents Registered	16,159
Survey Plans Filed	419

Personnel

Registrar of Deeds (Charlottetown) - Frances MacDonald
Assistant Registrar (Charlottetown) - Molly Armstrong
Clerk (Charlottetown) - Tanya Walker

Registrar of Deeds (Summerside) - Eileen Gaudet
Assistant Registrar (Summerside) - Shirley Rogerson